

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
DAYTON DIVISION**

IN RE:	Case No. 19-31090
Charles D. Pence	Chapter 13
Debtor.	Judge Guy R Humphrey

CARVANA LLC	Adversary Case No. 19-03077
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Plaintiff

vs.

Charles D. Pence

Defendant

MOTION FOR DEFAULT JUDGMENT

COMES NOW, CARVANA LLC, Plaintiff in the above-entitled cause, and pursuant to Bankruptcy Rule 7055(a) and 7055(b)(1), moves this Court for a Default Judgment in the above-entitled cause of action against Charles D. Pence.

In support thereof, and incorporated herein and attached hereto as “Exhibit 1”, is the Affidavit of Jon J. Lieberman, Attorney at Law, attesting to the default.

In support thereof, and incorporated herein and attached hereto as “Exhibit 2”, is the Affidavit of Jennifer Cruise , Bankruptcy Representative for CARVANA LLC, attesting to the facts in support of Plaintiff’s claim for relief, and the amount of Plaintiff’s claim.

In support thereof, and incorporated herein and attached hereto as “Exhibit 3”, is the Affidavit of Jon J. Lieberman, Attorney at Law, attesting to the invoice reflecting the legal fees and court cost incurred by Plaintiff for the prosecution of this Adversary Proceeding.

In support thereof, and incorporated herein and attached hereto as “Exhibit 4”, is the Affidavit of Jon J. Lieberman, Attorney at Law, attesting to the fact that the Defendant is not currently on active military duty in any branch of the Armed Forces.

In support thereof, and incorporated herein and attached hereto as “Exhibit 5”, is the Affidavit of Jon J. Lieberman, Attorney at Law, attesting to the fact that the Defendant is neither a minor nor is incompetent.

WHEREFORE, the Plaintiff respectfully requests that the Court enter an Order granting Default Judgment and finding the following:

1. That as a result of the Defendant’s knowing, intentional, and fraudulent misrepresentation to Plaintiff, that the sum of \$17,529.00 with a per diem rate of interest at 0.00%. (which is the payoff balance good through 10/06/2019), plus the sum of \$1,970.00, (which was the amount of legal fees and costs incurred in prosecuting this Adversary Proceeding), that is a total sum of \$19,499.00, be declared non-dischargeable pursuant to 11 U.S.C. §523(a)(2)(A).

Respectfully Submitted,

/s/ Jon J. Lieberman

Jon Lieberman (0058394)

Attorney for Plaintiff

Sottile & Barile, Attorneys at Law

P.O. Box 476

Loveland, OH 45140

Phone: (513) 444-4100

Email: bankruptcy@sottileandbarile.com

CERTIFICATE OF SERVICE

I certify that on October 8, 2019, a true and correct copy of the Motion for Default Judgment was served:

by regular US Mail, postage pre-paid on:

Charles D. Pence
6460 Shull Road
Dayton, OH 45424

David J Smith
Babb, Anderson, Rowland & Smith, LLC
2190 Gateway Drive
Fairborn, OH 45324

/s/ Jon J. Lieberman

Jon Lieberman (0058394)

Attorney for Movant